

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re: Bankruptcy No. 01-1139-JKF
Chapter 11
W.R. Grace & Co., et al. Jointly Administered
Debtor(s)

W.R. Grace & Co., et al.
Plaintiff(s)

v.

Adversary No. 05-52724

Bradley M. Campbell,
Commissioner of the
New Jersey Department of
Environmental Protection,
in his official capacity;
Peter C. Harvey,
Attorney General of
New Jersey, in his
official capacity
Defendants

DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

Pursuant to Rule 8006, Fed. R. Bankr. P., the State of New Jersey, Department of Environmental Protection ("Department" or "State") respectfully submits its Designation of the Items to be included in the Record on Appeal.

Designation of Items to Be Included in the Record on Appeal:

<u>DATE</u>	<u>DOCKET NO.</u>	<u>DESCRIPTION</u>
04/01/2008	30	Memorandum Opinion and Order
04/08/2008	31	Notice of Appeal
9/19/2005	1	W.R. Grace Complaint for Declaratory and Injunctive Relief by W.R. GRACE

& CO., et al. Against Bradley M. Campbell, Commissioner of the New Jersey Department of Environmental Protection

9/19/2005	3	Motion for Preliminary Injunction Debtor's Motion for an Injunction Under Sections 105 and 362 of the Bankruptcy Code
10/07/2005	6	Motion to Dismiss Adversary Proceeding Filed by Bradley M. Campbell, Commissioner of the New Jersey Department of Environmental Protection
10/07/2005	7	Brief Filed by Bradley M. Campbell, Commissioner of the New Jersey Department of Environmental Protection
10/28/2005	8	Objection to Defendants' Motion to Dismiss Filed by W.R. Grace & Co.
11/18/2005	9	Certification of Counsel Regarding Debtors' Motion for an Injunction Under Sections 105 and 362 of the Bankruptcy Code Filed by W.R. GRACE & CO.
01/17/2006	10	Order (Modified) Regarding Debtors' Motion for Injunction Under Sections 105 and 362 of the Bankruptcy Code
01/31/2006	11	Order (Second) Regarding Debtor's Motion for an Injunction
02/23/2006	12	Order (Third) Regarding Debtor's Motion for an Injunction
03/29/2006	13	Order (Fourth) Regarding Debtor's Motion for an Injunction
05/18/2006	14	Certification of Counsel Regarding Order Regarding Debtors' Motion for an Injunction Under Sections 105 and 362 of the Bankruptcy Code
06/05/2006	15	Order (Fifth) Regarding Debtor's Motion for an Injunction. Order

Signed on 6/5/2006. (LCN,) (Entered: 06/05/2006)

06/20/2006	16	Order (Sixth) Regarding Debtor's Motion for an Injunction.
06/26/2006	17	Certification of Counsel Regarding Corrected Order Regarding Debtors' Motion for an Injunction Under Sections 105 and 362 of the Bankruptcy Code
06/29/2006	18	Order (Corrected Sixth) Regarding Debtor's Motion for an Injunction
09/26/2006	20	Order (Eighth) Regarding Debtor's Motion for an Injunction
11/21/2006	21	Order (Ninth) Regarding Debtor's Motion for an Injunction
12/20/2006	22	Order (Tenth) Regarding Debtor's Motion for an Injunction
01/24/2007	24	Order (Eleventh) Regarding Debtor's Motion for an Injunction
02/23/2007	25	Order Continuing Hearing on Debtors' Motion for Injunction to the April 2, 2007
10/05/2007	26	Order Requiring Status Report and Setting Status Conference
10/16/2007	28	Status Report of Debtor W.R. Grace & Co. et al. Filed by W.R. GRACE & CO., et al.
10/22/2007	29	Status Report Letter re Status Report Filed by Bradley M. Campbell, Commissioner of the New Jersey Department of Environmental Protection

Docket No. 01-01139

1/18/2006	11563	Transcript of 11/14/05 Hearing
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4/09/2007

15117

Transcript of 4/02/2007 Hearing

Respectfully submitted,

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY

By: /S/ Rachel Jeanne Lehr
Rachel Jeanne Lehr
Deputy Attorney General

Dated: April 18, 2008

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STATEMENT OF ISSUES PRESENTED ON APPEAL

Pursuant to Rule 8006, Fed. R. Bankr. P., Bradley M. Campbell, et al, respectfully submits this Statement of Issues Presented on Appeal.

Statement of Issues to Be Presented:

A. Whether the Bankruptcy Court erred in finding that the State's action was not subject to the State's exemption from the automatic stay, 11 U.S.C. 362 (b)(4), for actions pursuant to the police power or the State.

B. Whether the Bankruptcy Court erred in finding that because the EPA later remediated the site, there was no danger to

the public health and the environment from the debtor's signing false certifications as to the asbestos-ridden condition of the site; the State's motion to file a late proof of claim considering the totality of the circumstances, which included the fact that the debtor, W.R. Grace, had sworn to false information about the contamination at the site that the State had no way of knowing about before the bar date.

F. Whether the Bankruptcy Court erred in ignoring such decisions as State of New Jersey, Department of Environmental Protection and Energy v. Madison Industries, Inc., 161 B.R. 363 (D.N.J. 1993) in which Chief Judge Garrett Brown of the District of New Jersey wrote that rather than the penalty aspect of the an enforcement action constituting an action to collect a "money judgment" and thus not exempt from the automatic stay, found that the "DEP's statutory penalties merely gave 'teeth' to New Jersey's environmental laws."

Respectfully submitted,

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY

By: /S/ Rachel Jeanne Lehr
Deputy Attorney General

Dated: April 18, 2008